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REMARKS

Upon receipt of this response, the Examiner is respectfully requested to contact the undersigned representative of the Applicant to arrange a telephone interview concerning the inventive merits of this application.

The Applicant notes that claims 37-46 are withdrawn from further consideration as being directed to the non-elected species. In view of this, claim 37 is canceled in favor of new claim 49 while the remaining claims are amended to depend from claim 29 and thus it is respectfully submitted that those claims should now be considered along with the elected claims.

Next, claims 23, 28, 29 and 34 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons noted in the official action. The inadequate written description rejection is acknowledged and respectfully traversed in view of the following remarks.

Although the Applicant believes that Figs. 22A-22C clearly show that the blade(s) extends about half way toward the longitudinal axis. However, in order to simplify prosecution of this case, such feature is canceled from the claims thereby overcoming the raised 35 U.S.C. § 112, first paragraph, rejections.

Claims 23, 28, 29, and 34 are then rejected, under 35 U.S.C. § 103(a), as being unpatentable over McClean '074 (United States Patent No. DES 358,074) in view of Rink '939 (U.S. Patent No. 3,127,939) or James '686 (U.S. Patent No. 6,904,686) or Rosenbloom '446 (U.S. Design Patent 130,446). The Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the above amendments and the following remarks.

McClean '074 relates to a design of a pie dough cutter which includes an outer ring with two ends. The pie dough cutter has a total of eight blades that axially span from the "handle" to the second end of the outer ring and radially extend toward the longitudinal axis from the outer ring, not one or two blades as currently claimed. Further, it should also be noted that each of the blades is coupled or connected to both the outer ring (i.e., the tubular member) and the "handle"--not just to the sidewall of the tubular member as presently claimed. In addition, the blades are certainly not formed by a cut formed in a sidewall of the tubular member with the cut sidewall being bent inward into the interior cavity of the tubular member to form respectively the blade(s) such that the blade(s) extends toward and parallel to and coincident with the longitudinal axis and is solely supported within the interior cavity by a side wall of the tubular member, and the planar blade cutting edge lies in a plane defined by the circular and planar cutting edge," as presently recited.

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With respect to James '686, the Applicant notes that James '686 states that the slat ripper 10 has "a cutting means 40 fixedly disposed within the body chamber 70 between and attached to the inside faces of the top wall 20 and the bottom wall 30, wherein the functional end of the cutting means is exposed only to the internal portion of the chamber 70. As more particularly detailed in FIGS. 1, 4 and 5, the cutting means further comprises a slot 25 that is cut into the back end of the top wall 20 wherein the cut wall material is bent perpendicularly to the top wall and curved inwards toward the inside face of the bottom wall. The inner edge of the cut top wall material is sharpened to form a blade edge 41 facing inwards towards the front end 60 of the chamber 70....the bottom portion of the cut top wall material is curved around to lay flat upon the inside face of the bottom wall 30"—see column 2, line 65 to column 3, line 15. (Emphasis added.) In view of such disclosure, it is respectfully submitted that this arrangement is contrary to the presently claimed invention in which the *cutting blade is planar and the cutting edge of the first and the second blades each lie in the plane defined by the circular and planar cutting edge*. Such features are clearly not present in James '686 nor any of the other prior art of record in this case.

With respect to Rink '939, the cutting edges are 14a also do not *lie in the plane defined by the circular and planar cutting edge*, as presently claimed.

With respect to Rosenbloom '446, the inwardly directed blade does not appear to have (1) a planar blade cutting edge; and (2) the blade is inclined with respect to the longitudinal axis of the tubular member and thus not *parallel to and coincident with the longitudinal axis*, as presently claimed.

In addition to the above remarks, the Applicant acknowledges that the additional references of Rink '939, James '686 and/or Rosenbloom '446 may arguably relate to the feature(s) indicated by the Examiner in the official action. Nevertheless, the Applicant respectfully submits that the combination of the base reference of McClean '074 with this additional art of Rink '939, James '686 and/or Rosenbloom '446 still fails to in any way teach, suggest or disclose the above distinguishing features of the presently claimed invention. As such, all of the raised rejections should be withdrawn at this time in view of the above amendments and remarks.

In order to emphasize the above noted distinctions between the presently claimed invention and the applied art, independent claim 23 now recites the features of "the cut sidewall being bent inward into the interior cavity of the tubular member to form the at least one blade such that the at least one blade extends toward and parallel to and coincident with

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the longitudinal axis and is solely supported within the interior cavity by a side wall of the tubular member, and the planar blade cutting edge lies in a plane defined by the circular and planar cutting edge."

Independent claim 29 now recite the features of "only opposed first and second planar blades each having a planar blade cutting edge, each of the first and the second planar blades being formed by a cut formed in a sidewall of the tubular member and thereby forming the two gaps in the circular and planar cutting edge with the cut sidewall being bent inward into the interior cavity of the tubular member to form respectively the first and the second planar blades such that the first and the second blades extend toward and parallel to and coincident with the longitudinal axis and are supported within the interior cavity solely by a side wall of the tubular member, and the planar blade cutting edge of the first and the second blades lie in a plane defined by the circular and planar cutting edge."

Lastly, new independent claim 48 is entered in this case and this new claim recites the features of "at least one planar blade having a planar blade cutting edge, the at least one blade being formed by a cut formed in a sidewall of the tubular member and the cut sidewall being bent inward into the interior cavity of the tubular member to form the at least one planar blade and thereby form the at least one gap in the circular and planar cutting edge such that the at least one planar blade extends radially inwardly toward and parallel to and coincident with the longitudinal axis and is solely supported by a side wall of the tubular member, and the planar blade cutting edge lies of the at least one blade lies in a plane defined by the circular and planar cutting edge." Such features are believed to clearly and patentably distinguish the presently claimed invention from all of the art of record, including the applied art.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the McClean '074, Rink '939, James '686 and/or Rosenbloom '446 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the

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Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

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In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,


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